

STATE OF NORTH CAROLINA

WAKE COUNTY

THE NORTH CAROLINA STATE BAR  
Plaintiff

v.

KIA NARISSA SCOTT, Attorney,  
Defendant



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
13 DHC 21

AMENDMENT TO  
COMPLAINT

Now, prior to service of responsive pleading, comes Plaintiff, the North Carolina State Bar, and amends its complaint as a matter of course pursuant to Rule 15(a) of the Rules of Civil Procedure as follows:

1.

By striking paragraphs numbered 93 and 94 in their entirety.

2.

By adding to the complaint as paragraphs numbered 93 through 109 the following:

**FIFTH CLAIM FOR RELIEF**

93. Paragraphs 1 through 92 are re-alleged and incorporated herein.

94. On or about 19 October 2012 at approximately 11:35 a.m., Scott appeared in Cabarrus County Administrative Traffic Court on behalf of ten clients.

95. ADA Jennifer Hancock was the assistant district attorney assigned to run administrative traffic court on 19 October 2012. By the time Scott arrived at administrative traffic court, the Cabarrus County's District Attorney's Office had already completed their plea negotiations with defense attorneys. Therefore, ADA Hancock was not available to talk with Scott about Scott's clients' cases when Scott arrived.

96. ADA Hancock informed Scott that though ADA Hancock was unable to talk with Scott, Scott could go to the Cabarrus County District Attorney's Office to attempt to negotiate plea agreements for her clients with another assistant district attorney.

97. After talking with ADA Hancock, Scott left the courtroom with the official court files ("shucks") for the following clients:

- a. J. Manning;
- b. V. Smith;
- c. R. Price;
- d. Y. Culbreth;
- e. K. Doe;
- f. T. Taylor;
- g. A. Childs;
- h. E. Brown;
- i. D. Japp; and
- j. L. Robinson.

98. When Scott left the courtroom, the only handwritten notations on the shucks were: (i) the date, (ii) the court case number, and (iii) another number that identified the page of the court docket on which the case could be found.

99. Approximately ten to twelve minutes later, Scott returned to the courtroom. When Scott returned to the courtroom, the shucks for her clients' cases had additional handwritten notations of "IE" or "IE/VD" on them. Scott told ADA Hancock that ADA Megan Baumgardner had reviewed Scott's clients' cases and had approved the dispositions as written on the shucks.

100. In Cabarrus County, it is the prosecutor's office's duty to handwrite any agreed upon dispositions on the shucks.

101. The prosecutor's office did not make the additional handwritten notations on the shucks for Scott's clients' cases. Scott made these additional handwritten notations.

102. Scott had also handwritten "VD" on the North Carolina Uniform Citation – Court Copy for her clients, V. Smith and J. Manning.

103. Only the prosecutor's office is authorized to note voluntary dismissals by handwriting "VD" on the official court copy of the citation.

104. Scott's handwritten notations on the shucks, on the official court copies of the citations for V. Smith and J. Manning, and her statements to ADA Hancock gave the false impression that the Cabarrus County District Attorney's Office had agreed to

resolve Scott's clients' cases by voluntary dismissal or plea to the lesser offense of improper equipment.

105. Scott presented these altered shucks and altered official court copies of citations to the court as if they represented dispositions that had been agreed upon by Scott and the Cabarrus County District Attorney's Office. Scott falsely represented to the court that all parties agreed that the cases should be resolved according to the handwritten notations on the shucks.

106. Scott did not engage in any plea negotiations with anyone from the Cabarrus County District Attorney's Office on behalf of the clients listed in paragraph 97 above.

107. The Cabarrus County District Attorney's Office did not agree that these cases should have been dismissed, or to accept pleas to the lesser offense of improper equipment.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. § 84-28(b)(2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at the time of her actions as follows:

- a) By writing "VD" on the official court copy of the citations for V. Smith and J. Manning, Scott committed a criminal act (altering court documents in violation of N.C. Gen. Stat. § 14-221.2) that reflects adversely on her honesty, trustworthiness or fitness as a lawyer in other respects in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c) and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d); and
- b) By representing to the court that the handwritten notations on her clients' shucks represented dispositions agreed upon by the parties, Scott made a false statement of material fact to the tribunal in violation of Rule 3.3(a), engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c) and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

#### **SIXTH CLAIM FOR RELIEF**

108. Paragraphs 1 through 107 are re-alleged and incorporated herein.

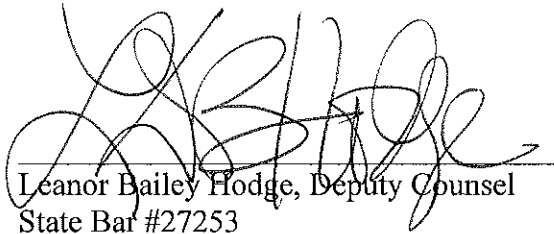
109. On or about 16 July 2013, Scott pled guilty to and was convicted of one count of misdemeanor common law obstruction of justice.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. § 84-28(b)(1) in that she pled guilty to and was convicted of one count of misdemeanor common law obstruction of justice, a criminal offense showing professional unfitness.

3.

A copy of the amended complaint is attached hereto as Exhibit A.

This the 22<sup>nd</sup> day of August, 2013.

A handwritten signature in black ink, appearing to read 'LBHodge', is written over a horizontal line.

Leonor Bailey Hodge, Deputy Counsel  
State Bar #27253

*Attorney for Plaintiff*

The North Carolina State Bar

P. O. Box 25908

Raleigh, NC 27611

(919) 828-4620

STATE OF NORTH CAROLINA

WAKE COUNTY

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
13 DHC 21

THE NORTH CAROLINA STATE BAR,  
Plaintiff

v.

KIA NARISSA SCOTT, Attorney,  
Defendant

AMENDED  
COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar (hereafter "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Kia Narissa Scott (hereafter "Defendant" or "Scott"), was admitted to the North Carolina State Bar on 24 August 2007 and is an Attorney at Law subject to the rules, regulations, and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During the relevant period referred to herein, Scott was actively engaged in the practice of law and maintained a law office in Concord, Cabarrus County, North Carolina.

**FIRST CLAIM FOR RELIEF**

4. Paragraphs 1 through 3 are re-alleged and incorporated herein.

5. Scott maintained two attorney trust accounts, Wachovia Bank trust account ending in no. 6620 (hereinafter "Wachovia trust account") and Fifth Third Bank trust account ending in no. 5268 (hereinafter "Fifth Third trust account").

6. Scott failed to maintain proper client ledgers which accurately tracked the deposit and disbursement of client funds in the Wachovia trust account and Fifth Third trust account.

7. Scott failed to perform quarterly or monthly reconciliations of the Wachovia trust account and Fifth Third trust account as required by the Rules of Professional Conduct.

EXHIBIT

A

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. § 84-28(b)(2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at the time of her actions as follows:

- a) By failing to maintain client ledgers, Scott failed to maintain minimum records for accounts at banks in violation of Rule 1.15-3(b); and
- b) By failing to reconcile her Wachovia trust account and Fifth Third trust account, Scott failed to perform monthly and quarterly reconciliations of her general trust accounts in violation of Rule 1.15-3(d).

### **SECOND CLAIM FOR RELIEF**

8. Paragraphs 1 through 7 are re-alleged and incorporated herein.

9. Scott maintained the Wachovia trust account for use primarily in her representation of clients in traffic court matters.

10. Scott also maintained an operating account at Wachovia Bank, account ending in no. 6662 (hereinafter "Wachovia operating account").

11. Scott deposited into the Wachovia operating account all legal fees and court costs paid by credit card for traffic court matters.

12. Scott made deposits into the Wachovia operating account of legal fees and court costs paid by credit card for the following clients on the dates and in the amounts listed below:

- a. D. Parker - \$316.00 on or about 7 January 2011;
- b. N. Willis - \$296.00 on or about 6 January 2011;
- c. R. Hunt - \$300.00 on or about 26 January 2011;
- d. F. Rygiel - \$345.00 on or about 7 February 2011;
- e. A. Soucek - \$445.00 on or about 3 February 2011;
- f. L. Policastro - \$250.00 on or about 12 July 2011;
- g. W. Murray - \$312.00 on or about 25 August 2011; and,
- h. M. Habachi - \$362.00 on or about 8 September 2011.

13. Scott disbursed payment for court costs for the above listed clients from the Wachovia trust account on the following dates:

- a. D. Parker - \$166.00 on or about 16 May 2011;

- b. N. Willis - \$166.00 on or about 25 January 2011;
- c. R. Hunt - \$166.00 on or about 28 February 2011;
- d. F. Rygiel - \$166.00 on or about 25 May 2011;
- e. A. Soucek - \$261.00 on or about 17 May 2011;
- f. L. Policastro - \$166.00 on or about 16 August 2011;
- g. W. Murray - \$195.00 on or about 9 September 2011; and
- h. M. Habachi - \$195.00 on or about 26 September 2011.

14. Scott failed to deposit the funds paid by the clients listed in paragraph 13 above into the Wachovia trust account.

15. Instead, Scott made periodic transfers of funds in random amounts from the Wachovia operating account into the Wachovia trust account.

16. For each of the clients listed in paragraph 13 above, Scott used other clients' funds to pay their court costs and fines.

17. Scott used the following clients' entrusted funds for purposes other than that for which the funds were entrusted to her, to include using the funds for her personal and/or business expenditures:

- a. L. Policastro;
- b. W. Murray; and
- c. M. Habachi.

18. Scott misappropriated the funds of the clients listed in paragraph 17 above.

19. C. Washington delivered to Scott \$293.00 in cash to pay for court costs, fines and Scott's legal fees in a traffic court matter.

20. Scott deposited \$168.00 of Washington's cash payment into the Wachovia trust account on or about 22 February 2011.

21. Scott paid court costs and fines for Washington on or about 6 April 2011.

22. On several occasions after Scott deposited Washington's funds into the Wachovia trust account, and before Scott paid Washington's court costs and fines, the balance in the Wachovia trust account fell below the amount Scott was required to hold in trust for Washington.

23. Scott used Washington's entrusted funds for purposes other than that for which the funds were entrusted to her.

24. On or about 9 May 2011, J. Diedrich paid Scott \$291.00 for court costs, fines and Scott's attorney fee in a traffic court matter.

25. Scott deposited Diedrich's payment into her Wachovia Bank trust account.

26. Scott paid court costs and fines for Diedrich on or about 23 June 2011.

27. On several occasions after Scott deposited Diedrich's funds in the Wachovia Bank trust account and before she paid his court costs and fines, the balance in Scott's trust account fell below the amount Scott was required to hold in trust for Diedrich.

28. Scott used Diedrich's entrusted funds for purposes other than that for which the funds were entrusted to her.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. § 84-28(b)(2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at the time of her actions as follows:

- a) By depositing her clients' funds entrusted to her for payment of court costs and fines into her Wachovia operating account, Scott failed to deposit entrusted property into a general trust account in violation of Rule 1.15-2(b);
- b) By using her clients' entrusted funds to pay court costs and fines of other clients, Scott used entrusted property for the benefit of one other than the legal or beneficial owner in violation Rule 1.15-2(j); and
- c) By using her clients' entrusted funds for her personal and/or business expenditures, Scott used entrusted property for her personal benefit in violation of Rule 1.15-2(j), committed a criminal act (embezzlement) that reflects adversely on her honesty, trustworthiness and fitness as a lawyer in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

### **THIRD CLAIM FOR RELIEF**

29. Paragraphs 1 through 28 are re-alleged and incorporated herein.

30. Scott maintained the Fifth Third trust account primarily for handling clients' settlement proceeds from personal injury matters.

31. D. Anderson was awarded \$6,125.00 in settlement of his personal injury claims. Scott deposited these funds into the Fifth Third trust account on or about 8 December 2011.

32. Scott made the following disbursements from the Fifth Third trust account on the Anderson client account:

- a. Transfer to Scott's Fifth Third operating account - \$2,000.00 on or about 30 November 2011;
- b. Better Wellness Chiropractor - \$1,475.00 on or about 8 December 2011;
- c. D. Anderson - \$1,215.44 on or about 12 December 2011;
- d. Charlotte Radiology - \$98.00 on or about 15 December 2011;
- e. CMC Northeast - \$1,365.12 on or about 23 December 2011; and
- f. Cabarrus Emergency Medicine - \$253.00 on or about 5 January 2011.

33. When Scott purported to transfer \$2,000.00 to herself on the D. Anderson account on or about 30 November 2011, Anderson did not have any funds in the Fifth Third trust account.

34. The \$2,000.00 Scott transferred to her operating account on or about 30 November 2011 were her other client's entrusted funds. Scott used these funds for her personal benefit and not for the purposes for which the funds were entrusted to her.

35. Anderson did not have any funds remaining in the Fifth Third trust account on 5 January 2011 when Scott disbursed funds to Cabarrus Emergency Medicine on Anderson's behalf. Scott used other clients' entrusted funds to make this disbursement.

36. Scott misappropriated \$2,000.00 in entrusted client funds.

37. Scott represented S. Edmonds in a personal injury matter.

38. On or about 13 December 2011 Scott transferred \$2,500.00 from the Fifth Third trust account to her Fifth Third operating account on the Edmonds client account.

39. Edmonds did not have any funds in the Fifth Third trust account when Scott transferred \$2,500.00 on the Edmonds account. Scott did not deposit Edmonds' settlement proceeds into the Fifth Third trust account until on or about 23 December 2011.

40. Scott misappropriated \$2,500.00 in entrusted client funds.

41. Scott deposited into the Fifth Third trust account settlement proceeds in the amount of \$11,000 for N. Foster on or about 20 July 2011.

42. Scott made the following disbursements from the Fifth Third trust account on Foster's behalf:

- a. N. Foster - \$6,000.00 on or about 20 July 2011;
- b. Scott Law Firm - \$3,500.00 on or about 20 July 2011; and
- c. CorVet Corp - \$1,300.00 on or about 20 December 2011.

43. Between 20 July 2011 and 20 December 2011 Scott was required to maintain \$1,500.00 in the Fifth Third trust account for Foster.

44. Scott failed to maintain Foster's funds in trust. On the following dates the balance in the Fifth Third trust account fell below \$1,500.00:

- a. On or about 27 October 2011 – negative balance of \$833.05;
- b. On or about 31 October 2011 – negative balance of \$882.30; and
- c. On or about 1 November 2011 – negative balance of \$948.30.

45. Scott used Foster's entrusted funds for purposes other than that for which Foster entrusted the funds to Scott.

46. Scott deposited into her Fifth Third trust account settlement proceeds for D. Burgess in the amount of \$11,581.30 on or about 29 September 2011.

47. Scott made the following disbursements from the Fifth Third trust account on Burgess's behalf:

- a. D. Burgess - \$3,090.87 on or about 29 September 2011;
- b. Scott Law Firm - \$3,360.43 on or about 30 September 2011; and
- c. Better Wellness Chiropractor - \$1,130.00 on or about 4 October 2011.

48. Scott was also required to disburse \$4,000.00 to CMC Northeast on Burgess's behalf. Although CMC Northeast presented a \$4,000.00 check drawn on the Fifth Third trust account to the bank, it was returned for non-sufficient funds.

49. As of 31 July 2012, Scott had not disbursed Burgess's \$4,000.00 to CMC Northeast and Burgess's account at CMC Northeast remained unpaid.

50. After making the disbursements for Burgess listed in paragraph 47 above and failing to make payment to CMC Northeast, Scott was required to maintain \$4,000.00 in the Fifth Third trust account for Burgess.

51. Scott failed to maintain Burgess's funds in trust. The balance in the Fifth Third trust account was below \$4,000.00 from 14 October 2011 through 1 November 2011.

52. Although the balance in the Fifth Third trust account exceeded \$4,000.00 after 1 November 2011, the increase in the account was due to Scott's deposit of another client's entrusted funds.

53. Scott used Burgess's entrusted funds for purposes other than that for which Burgess entrusted the funds to Scott.

54. Scott deposited into the Fifth Third trust account settlement proceeds in the amount of \$7,236.90 for M. Webb on or about 15 July 2011.

55. Scott made the following disbursements from the Fifth Third trust account on Webb's behalf:

- a. Better Wellness Chiropractor - \$1,215.00 on or about 15 July 2011;
- b. M. Webb - \$2,595.54 on or about 15 July 2011; and
- c. Scott Law Firm - \$2,345.63 on or about 18 July 2011.

56. Scott was required to maintain \$1,080.73 in the Fifth Third trust account for Webb.

57. Scott failed to maintain Webb's funds in trust. On 27 October 2011, the Fifth Third trust account had a negative \$833.05 balance.

58. Scott used Webb's entrusted funds for purposes other than that for which Webb entrusted the funds to Scott.

59. Scott deposited into the Fifth Third trust account settlement proceeds in the amount of \$5,500.00 for J. Sanchez on or about 10 November 2011.

60. Scott made the following disbursements from the Fifth Third trust account on Sanchez's behalf:

- a. Scott Law Firm - \$1,300.00 on or about 10 November 2011;
- b. J. Sanchez - \$1,772.00 on or about 10 November 2011; and
- c. Kannapolis Spine Wellness - \$2,428.00 on or about 23 December 2011.

61. Between 10 November 2011 and 23 December 2011, Scott was required to maintain \$2,428.00 in the Fifth Third trust account for Sanchez.

62. Scott failed to maintain Sanchez's funds in trust. On the following dates the balance in the Fifth Third trust account fell below \$2,428.00:

- a. On or about 21 November 2011 - \$1,456.56; and
- b. On or about 20 December 2011 - \$2,251.26.

63. Scott used Sanchez's entrusted funds for purposes other than that for which Sanchez entrusted the funds to Scott.

64. Scott deposited into the Fifth Third trust account settlement proceeds in the amount of \$8,000.00 for C. Porter on or about 21 January 2011.

65. Scott made the following disbursements from the Fifth Third trust account on Porter's behalf:

- a. Scott Law Firm - \$2,676.66 on or about 21 January 2011;
- b. C. Porter - \$3,524.67 on or about 24 January 2011; and
- c. Cook Chiropractor - \$1,430.00 on or about 1 February 2011.

66. Scott was required to maintain \$368.67 in the Fifth Third trust account for Porter.

67. Scott failed to maintain Porter's funds in trust. On 27 October 2011, the Fifth Third trust account had a negative \$833.05 balance.

68. Scott used Porter's entrusted funds for purposes other than that for which Porter entrusted the funds to Scott.

69. Scott deposited into the Fifth Third trust account real property sales proceeds in the amount of \$17,500.00 on behalf of the G. Coleman Estate on or about 26 August 2011.

70. Scott made the following disbursements on behalf of the Coleman Estate:

- a. Transfer to Scott's Fifth Third operating account - \$6,000.00 on or about 26 August 2011;
- b. Transfer to Scott's Fifth Third operating account - \$213.31 on or about 31 August 2011;
- c. Cash withdrawal - \$95.81 on or about 1 September 2011;
- d. D. Cannon - \$4,000.00 on or about 9 September 2011; and
- e. M. Lipscomb - \$6,000.00 on or about 9 September 2011.

71. Scott was required to maintain \$1,190.88 in the Fifth Third trust account for the Coleman Estate.

72. Scott failed to maintain the Coleman Estate's funds in trust. On 27 October 2011, the Fifth Third trust account had a negative \$833.05 balance.

73. Scott used the Coleman Estate's entrusted funds for purposes other than that for which these funds were entrusted to Scott.

74. Scott deposited into the Fifth Third trust account settlement proceeds in the amount of \$50,000 for D. Kennedy on or about 2 September 2011.

75. Scott made the following disbursements from the Fifth Third trust account on Kennedy's behalf:

- a. Transfer to Scott's Fifth Third operating account - \$16,666.66 on or about 7 September 2011;
- b. D. Kennedy - \$8,000.00 on or about 29 September 2011;
- c. MDS Med Payment - \$14,500.00 on or about 11 October 2011; and
- d. Recovery Services - \$12,500.00 on or about 12 October 2011.

76. Scott disbursed from the Fifth Third trust account on Kennedy's behalf \$1,666.66 more than she received in trust for Kennedy.

77. Scott used other client's entrusted client funds to make this \$1,666.66 excess disbursement.

78. On or about 6 April 2011, Scott disbursed from the Fifth Third trust account \$750.00 to J. Wagner as a refund of attorney's fees Wagner paid to Scott.

79. Wagner did not have any funds in trust; no funds were deposited into the Fifth Third trust account on Wagner's behalf.

80. Scott used other client's entrusted funds to pay Wagner's refund. Scott misappropriated these funds.

81. On or about 19 May 2011, Scott disbursed from the Fifth Third trust account \$787.50 to pay a mediation fee on behalf of M. Matthews.

82. The only deposit made into the Fifth Third trust account for Matthews was a \$262.50 deposit made on or about 12 June 2011.

83. Scott used other clients' entrusted funds to pay Matthews's mediation fee.

84. On or about 1 September 2011, Scott made a cash withdrawal from the Fifth Third trust account in the amount of \$2,500.00.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. § 84-28(b)(2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at the time of her actions as follows:

- a) By disbursing funds from the Fifth Third trust account to herself on behalf of D. Anderson and S. Edmonds, clients who did not have any funds in the Fifth Third trust account at the time of the disbursements, Scott used entrusted property for the personal benefit of one other than the legal or beneficial owner without authorization to do so in violation of Rule 1.15-2(j), committed a criminal act (embezzlement) that reflects adversely on her honesty, trustworthiness or fitness as a lawyer in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c);
- b) By disbursing from the Fifth Third trust account more funds for clients D. Kennedy and M. Matthews than that which she held in that account on said clients' behalf, Scott used entrusted property for the personal benefit of one other than the legal or beneficial owner without authorization to do so in violation of Rule 1.15-2(j);
- c) By failing to maintain her clients' entrusted funds in the Fifth Third trust account, Scott used entrusted property for the personal benefit of one other than the legal or beneficial owner without authorization to do so in violation of Rule 1.15-2(j);
- d) By disbursing funds from the Fifth Third trust account to refund an attorney fee paid by Wagner when Wagner did not have any funds in the Fifth Third trust account, Scott used entrusted property for her personal benefit in violation of Rule 1.15-2(j), committed a criminal act (embezzlement) that reflects adversely on her honesty, trustworthiness or fitness as a lawyer in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c); and
- e) By making a counter withdrawal from her Fifth Third trust account, Scott drew an item on a trust account made payable to cash or bearer in violation of Rule 1.15-2(i).

#### **FOURTH CLAIM FOR RELIEF**

85. Paragraphs 1 through 84 are re-alleged and incorporated herein.

86. J. Jones retained Scott in 2010 to represent him in criminal matters that were instituted after Jones was charged with embezzling \$20,461.00. Scott's

representation of Jones included representing Jones in his effort to retain his ministerial license.

87. Scott charged Jones a flat \$4,000.00 fee for her representation of him. Jones made a partial payment of the attorney's fee in the amount of \$3,000.00.

88. Additionally, Jones paid Scott \$9,461.00 on or about 16 March 2010 and \$6,000.00 on or about 27 April 2010. Scott deposited these funds into the Fifth Third trust account. Scott was required to hold these funds in trust for use to make restitution on behalf of Jones.

89. Scott made the following disbursements from the Fifth Third trust account on the Jones client account:

- a. Transfer to Scott's Fifth Third operating account - \$1,000.00 on or about 16 June 2010;
- b. Transfer to Scott's Fifth Third operating account - \$7,000.00 on or about 7 September 2010;
- c. Transfer to Scott's Fifth Third operating account - \$13,365.00 on or about 11 October 2011; and
- d. Clerk of Court - \$1,000.00 on or about 18 November 2011.

90. After making the \$1,000.00 payment to the Clerk of Court on Jones's behalf, Scott was required to maintain \$14,461.00 in trust for Jones.

91. Scott failed to maintain Jones's funds in trust and instead disbursed these funds to herself.

92. Scott misappropriated Jones's entrusted funds.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. § 84-28(b)(2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at the time of her actions as follows:

- a) By disbursing to herself funds she was required to maintain in trust for Jones, Scott used entrusted property for her personal benefit in violation of Rule 1.15-2(j), committed a criminal act (embezzlement) that reflects adversely on her honesty, trustworthiness or fitness as a lawyer in other respects in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

#### **FIFTH CLAIM FOR RELIEF**

93. Paragraphs 1 through 92 are re-alleged and incorporated herein.

94. On or about 19 October 2012 at approximately 11:35 a.m., Scott appeared in Cabarrus County Administrative Traffic Court on behalf of ten clients.

95. ADA Jennifer Hancock was the assistant district attorney assigned to run administrative traffic court on 19 October 2012. By the time Scott arrived at administrative traffic court, the Cabarrus County's District Attorney's Office had already completed their plea negotiations with defense attorneys. Therefore, ADA Hancock was not available to talk with Scott about Scott's clients' cases when Scott arrived.

96. ADA Hancock informed Scott that though ADA Hancock was unable to talk with Scott, Scott could go to the Cabarrus County District Attorney's Office to attempt to negotiate plea agreements for her clients with another assistant district attorney.

97. After talking with ADA Hancock, Scott left the courtroom with the official court files ("shucks") for the following clients:

- a. J. Manning;
- b. V. Smith;
- c. R. Price;
- d. Y. Culbreth;
- e. K. Doe;
- f. T. Taylor;
- g. A. Childs;
- h. E. Brown;
- i. D. Japp; and
- j. L. Robinson.

98. When Scott left the courtroom, the only handwritten notations on the shucks were: (i) the date, (ii) the court case number, and (iii) another number that identified the page of the court docket on which the case could be found.

99. Approximately ten to twelve minutes later, Scott returned to the courtroom. When Scott returned to the courtroom, the shucks for her clients' cases had additional handwritten notations of "IE" or "IE/VD" on them. Scott told ADA Hancock that ADA Megan Baumgardner had reviewed Scott's clients' cases and had approved the dispositions as written on the shucks.

100. In Cabarrus County, it is the prosecutor's office's duty to handwrite any agreed upon dispositions on the shucks.

101. The prosecutor's office did not make the additional handwritten notations on the shucks for Scott's clients' cases. Scott made these additional handwritten notations.

102. Scott had also handwritten "VD" on the North Carolina Uniform Citation – Court Copy for her clients, V. Smith and J. Manning.

103. Only the prosecutor's office is authorized to note voluntary dismissals by handwriting "VD" on the official court copy of the citation.

104. Scott's handwritten notations on the shucks, on the official court copies of the citations for V. Smith and J. Manning, and her statements to ADA Hancock gave the false impression that the Cabarrus County District Attorney's Office had agreed to resolve Scott's clients' cases by voluntary dismissal or plea to the lesser offense of improper equipment.

105. Scott presented these altered shucks and altered official court copies of citations to the court as if they represented dispositions that had been agreed upon by Scott and the Cabarrus County District Attorney's Office. Scott falsely represented to the court that all parties agreed that the cases should be resolved according to the handwritten notations on the shucks.

106. Scott did not engage in any plea negotiations with anyone from the Cabarrus County District Attorney's Office on behalf of the clients listed in paragraph 97 above.

107. The Cabarrus County District Attorney's Office did not agree that these cases should have been dismissed, or to accept pleas to the lesser offense of improper equipment.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. § 84-28(b)(2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at the time of her actions as follows:

- a) By writing "VD" on the official court copy of the citations for V. Smith and J. Manning, Scott committed a criminal act (altering court documents in violation of N.C. Gen. Stat. § 14-221.2) that reflects adversely on her honesty, trustworthiness or fitness as a lawyer in other respects in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c) and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d); and
- b) By representing to the court that the handwritten notations on her clients' shucks represented dispositions agreed upon by the parties, Scott made a false statement

of material fact to the tribunal in violation of Rule 3.3(a), engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c) and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

### **SIXTH CLAIM FOR RELIEF**

108. Paragraphs 1 through 107 are re-alleged and incorporated herein.

109. On or about 16 July 2013, Scott pled guilty to and was convicted of one count of misdemeanor common law obstruction of justice.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. § 84-28(b)(1) in that she pled guilty to and was convicted of one count of misdemeanor common law obstruction of justice, a criminal offense showing professional unfitness.

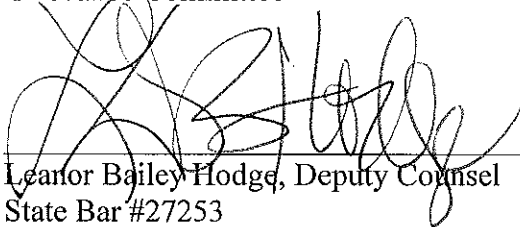
WHEREFORE, Plaintiff prays that:

1. Disciplinary action be taken against Defendant in accordance with N.C.G.S. § 84-28 (c) and 27 N.C.A.C. 1B § .0114 as the evidence on hearing may warrant;
2. Defendant be taxed with the administrative fees and with actual costs permitted by law in connection with the proceeding; and
3. For such other and further relief as the Hearing Panel deems appropriate.

This the 22<sup>nd</sup> day of August, 2013.



Margaret Hunt, Chair  
Grievance Committee



Eleanor Bailey Hodge, Deputy Counsel  
State Bar #27253

*Attorney for Plaintiff*  
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